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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/629,257	07/28/2003	Donald Naples		6698

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JACK LO
617 VIEWRIDGE DRIVE
PACIFICA, CA 94044

EXAMINER

ELEY, TIMOTHY V

ART UNIT	PAPER NUMBER
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3724

DATE MAILED: 02/08/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/629,257

Applicant(s)NAPLES, DONALD *EN***Examiner**

Timothy V Eley

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 19-23 is/are allowed.
- 6) ☒ Claim(s) 1,2,4-7,9,11 and 14-17 is/are rejected.
- 7) ☒ Claim(s) 3,8,10,12,13 and 18 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>7/28/03</u> . | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

Claim Objections

1. Claims 9-18 are objected to because of the following informalities:

- a. "an adjustable . . . angle"(claim 9, lines 5) is awkwardly worded. Specifically, "in angle" is awkward.
- b. "a jig . . . sheet"(claim 9, lines 7 and 8) is awkwardly worded. Specifically, "side-to-side" is vague since sides have not been positively recited. Appropriate correction is required.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1,2, and 7 are rejected under 35 U.S.C. 102(b) as being anticipated by Kane(1,956,686).

- a. Kane discloses a rotary blade sharpener, comprising a housing(1,3); a rotatable platen(20) in the housing; an abrasive sheet(21)on top of the platen; and a blade holder assembly positioned over the platen, the blade holder including a clamp(24,25) for securing a blade against the abrasive sheet, the blade holder assembly is hinged to the housing for adjusting an

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angle between the blade and the abrasive sheet. See figures 1 and 4, and lines 85-105.

b. Regarding claim 2, the platen is arranged to rotate away from the blade.

c. Regarding claim 7, the housing includes a surrounding wall completely surrounding the platen as clearly shown in the figures.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kane.

a. Kane is explained above.

b. Kane does not disclose a motor connected to the platen for rotating the platen at about 100-200 rpm.

c. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have provided a motor for rotating the platen, since it has been held that broadly providing a mechanical or automatic means to replace manual

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activity which has accomplished the same result involves only routine skill in the art. In re Venner, 120 USPQ 192.

d. The exact rpm of the motor would have been an obvious matter of choice and structural design to one having ordinary skill in the art at the time the invention was made, since clearly the exact rpm would depend upon numerous factors, such as, the dimensions of the blade, the desired sharpness, etc.

6. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kane in view of Benner(4,222,204).

a. Kane is explained above.

b. Kane does not disclose a removable disc positioned between the abrasive sheet and the platen, the removable disc being larger than the platen, and the abrasive sheet being adhered to the removable disc by a pressure sensitive adhesive.

c. Benner discloses a removable disc(13) positioned between an abrasive sheet(11) and a platen(16), the removable disc being larger than the platen(as clearly shown in figure 1), and the abrasive sheet being attached to the removable disc by magnetic attraction.

d. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified the Kane apparatus by providing a removable disc positioned between the abrasive sheet and the platen, the removable disc being larger than the platen, and the abrasive sheet being adhered to the removable disc by magnetic attraction

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as taught by Benner in order to allow for removal and replacement of the abrasive sheet.

e. To attach the abrasive sheet by a pressure sensitive adhesive to the removable disc would have been obvious to one having ordinary skill in the art at the time the invention was made as an alternative to magnetic attachment means, since the examiner takes Official Notice that adhesive attaching of an abrasive sheet is interchangeable with magnetic attaching of the abrasive sheet.

7. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kane in view of Duescher(5,967,882).

a. Kane is explained above.

b. Kane does not disclose a lubricant container for dispensing a lubricant onto the abrasive sheet.

c. Duescher discloses that it is well known to use a lubricant when sharpening a blade with an abrasive sheet. See column 5, lines 59-63.

d. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified the Kane apparatus by providing a lubricant onto the abrasive sheet to aid in sharpening the blade as taught by Duescher.

e. It would have been obvious to one having ordinary skill in the art at the time the invention was made to use a container controlled by a valve in order to regulate the amount of

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lubricant supplied since the examiner takes Official Notice that dispensing containers which use valves are well known in the art for supplying fluid in a controlled manner.

8. Claims 9,11,15, and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Olbrich(5,295,328) in view of Kane.

a. Olbrich discloses a rotary blade sharpener, comprising a rotatable abrasive member(48); an adjustable support rack(22,24); hinged to a base "over" the platen; and a jig(28,128) positioned on the rack for securing a blade, the jig is movable "side-to-side" in the rack for moving the blade radially across the abrasive member.

b. Olbrich does not disclose a housing for containing the platen or an abrasive sheet on top of a platen.

c. Kane as explained above discloses a housing for containing a platen and an abrasive sheet on top of the platen.

d. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified the Olbrich apparatus by providing a housing for containing the platen and replacing the abrasive member with a platen and an abrasive sheet as taught by Kane in order to protect the environment and to allow replacement of the abrasive sheet respectively.

e. Regarding claim 15, the exact rpm of the motor would have been an obvious matter of choice and structural design to one having ordinary skill in the art at the time the invention was made,

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since clearly the exact rpm would depend upon numerous factors, such as, the dimensions of the blade, the desired sharpness, etc.

9. Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Olbrich in view of Kane as applied to claim 9 above, and further in view of Benner.

a. Olbrich in view of Kane is explained above.

f. Olbrich as modified by Kane does not disclose a removable disc positioned between the abrasive sheet and the platen, the removable disc being larger than the platen, and the abrasive sheet being adhered to the removable disc by a pressure sensitive adhesive.

g. Benner discloses a removable disc(13) positioned between an abrasive sheet(11) and a platen(16), the removable disc being larger than the platen(as clearly shown in figure 1), and the abrasive sheet being attached to the removable disc by magnetic attraction.

h. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have further modified the Olbrich apparatus by providing a removable disc positioned between the abrasive sheet and the platen, the removable disc being larger than the platen, and the abrasive sheet being adhered to the removable disc by magnetic attraction as taught by Benner in order to allow for removal and replacement of the abrasive sheet.

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i. To attach the abrasive sheet by a pressure sensitive adhesive to the removable disc would have been obvious to one having ordinary skill in the art at the time the invention was made as an alternative to magnetic attachment means, since the examiner takes Official Notice that adhesive attaching of an abrasive sheet is interchangeable with magnetic attaching of the abrasive sheet.

8. Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Olbrich in view of Kane as applied to claim 9 above, and further in view of Duescher(5,967,882).

f. Olbrich in view of Kane is explained above.

g. Olbrich as modified by Kane does not disclose a lubricant container for dispensing a lubricant onto the abrasive sheet.

h. Duescher discloses that it is well known to use a lubricant when sharpening a blade with an abrasive sheet. See column 5, lines 59-63.

i. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have further modified the Olbrich apparatus by providing a lubricant onto the abrasive sheet to aid in sharpening the blade as taught by Duescher.

j. It would have been obvious to one having ordinary skill in the art at the time the invention was made to use a container controlled by a valve in order to regulate the amount of lubricant supplied since the examiner takes Official Notice that

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dispensing containers which use valves are well known in the art for supplying fluid in a controlled manner.

Allowable Subject Matter

10. Claims 3,8,10,12,13, and 18 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

11. Claims 19-23 are allowed.

Conclusion

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

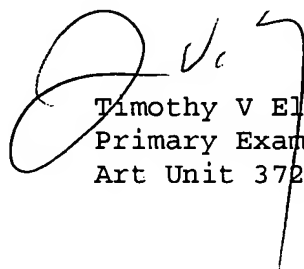
a. The cited prior art discloses blade sharpening apparatuses.

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Timothy V Eley whose telephone number is 571-272-4506. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Allan N Shoap can be reached on 571-272-4514. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Timothy V Eley
Primary Examiner
Art Unit 3724

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